

June 5, 2020

VIA CM/ECF

The Honorable John G. Koeltl
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007-1312

RE: Plaintiff's letter motion to serve the summons and complaint by email in
State of New York v. U.S. Dep't of Educ., et al., No. 1:20-cv-04260-JGK.

Dear Judge Koeltl:

Under Section I.A. of this Court's Individual Practices, Plaintiff the State of New York files this letter motion to seek leave to serve the summons and complaint in the above-referenced case on Defendants by email.

Plaintiff filed the complaint on June 4, 2020. ECF No. 1. Rule 4(i) of the Federal Rules of Civil Procedure requires Plaintiff to serve a copy of the summons and complaint by registered or certified mail to the Attorney General, the United States Attorney for the Southern District of New York, the U.S. Department of Education, and Secretary of Education Elisabeth DeVos. *See* Fed. R. Civ. P. 4(i)(1), 4(i)(2). The waiver-of-service provisions in Rule 4 do not apply to service on a federal government defendant. Fed. R. Civ. P. 4(d). In light of the present stay-at-home order issued by Governor Cuomo, as well as operative guidance on social distancing by the Centers for Disease Control and Prevention, Plaintiff asks the Court to grant leave to treat service of the summons and complaint by email as effective service on Defendants for purposes of complying with Rule 4(i).

Pursuant to Rule 4(l), the undersigned affirms that, on June 5, 2020, Plaintiff's attorney, Matthew Colangelo, transmitted the complaint, civil cover sheet, and executed summonses by email to Defendants' counsel.

Plaintiff conferred with Defendants' counsel before filing this motion, and Defendants advised that they consent to service by email.

Respectfully submitted,

LETITIA JAMES

Attorney General of the State of New York

Matthew Colangelo

Chief Counsel for Federal Initiatives

Elena Goldstein

Deputy Chief, Civil Rights Bureau

By: /s/ Joseph Wardenski

Joseph Wardenski, *Senior Trial Counsel*

Morenike Fajana, *Special Counsel*

Lindsay McKenzie, *Assistant Attorney General*

Amanda Meyer, *Assistant Attorney General*

Office of the New York State Attorney General

28 Liberty Street

New York, NY 10005

Phone: (212) 416-8441

Fax: (212) 416-6007

Joseph.Wardenski@ag.ny.gov

Attorneys for Plaintiff

cc (by email):

Jeffrey Oestericher

Chief, Civil Division

U.S. Attorney's Office, Southern District of New York

Jeffrey.Oestericher@usdoj.gov

Attorney for Defendants